

USSN: 09/995,009
Group Art Unit: 3726
Docket No.: 127P67USC1

Remarks

Applicant respectfully traverses the rejection of claims 7 and 8 as being unpatentable over Applicant's admitted prior art in view of the Oetiker patents.

The first Oetiker patent, U.S. Patent No. 4,425,781 is directed towards a method of manufacturing hose clamps. Column 4, lines 38-47 appear to be directed towards the installation of a clamp on an object. That clamp may then be later tightened during an assembly process. Referring to column 10, line 33, the patent states "Secure tightening of the clamp or of several clamps may then be carried out by another person appropriately located along the assembly line with the use of suitable pneumatic pincers or also by the person performing the performing and preassembly operations." It would therefore appear that this patent is directed towards a manufacturing process where the hose clamps, which are not at all related to an irrigation hose, are assembled in a manufacturing operation. Similarly, the second patent, U.S. Patent No. 5,321,879, it is seen in the background of the invention that the clamps are applicable to an assembly line in the automobile industry to fasten axle boots onto axles. Again, this is not at all related to an irrigation hose.

As previously mentioned, Applicant respectfully traverses the *prima facie* obviousness rejection of the Examiner. In order for a *prima facie* case of obviousness, there must be basis in the art for combining or modifying the references. The references are totally diverse. The admitted prior art deals with the manufacturing of an irrigation hose that is coiled and shipped off to a farm for later installation for irrigation purposes. The cited references are directed towards a clamp that is utilized during an assembly operation, typically in an automobile factory. Applicant respectfully submits that there is no teaching in the references that would suggest to one of ordinary skill in the art to make the proposed combination or modification suggested by the Examiner. There must be some logical reason that would justify the combination or

USSN: 09/995,009
Group Art Unit: 3726
Docket No.: 127P67USC1

modification. There would be no justification for a person skilled in the art of manufacturing an irrigation hose to utilize a clamp used in an automobile assembly operation.

There is no off-site use suggested by the cited references. Applicant can find no reason why one of ordinary skill would have been prompted to combine the teachings of the references to arrive at the claimed invention. There is no suggested relationship between the admitted prior art and that of the cited references that would cause one to combine the references as suggested.

The references by themselves must suggest a reason for the combination. One should not base an obviousness upon what a person skilled in the art might try or might find obvious to try, but rather what the prior art would have led a person skilled in the art to do. Applicant respectfully submits that there is no suggestion in the prior art that would lead one skilled in the art to make the combination suggested by the Examiner.

In further support of this is the fact that the Oetiker references are non-analogous art with respect to a person manufacturing irrigation hose.

Section 103 requires us to presume full knowledge by the inventor of the prior art in the field of his endeavor, but it does not us to require full knowledge by the inventor of prior art outside the field of his endeavor. In that respect it would only require us to presume that the inventor would have an ability to select and utilize knowledge from other arts reasonably pertinent to his particular problem which would be expected of one of ordinary skill in the art to which the subject matter pertains. Applicant respectfully suggests that this is the case in the present matter and that the reference should not be applied.

In addition, the prior art does not teach the source of the problem. The Oetiker references could not even begin to suggest the problem of attaching an irrigation hose when the Oetiker

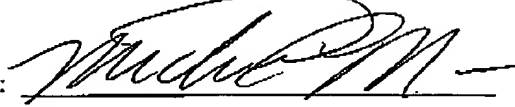
USSN: 09/995,009
Group Art Unit: 3726
Docket No.: 127P67USC1

patents have to do with a non-analogous use of a clamp for automobile hose assembly operations.

Accordingly, Applicant respectfully requests reconsideration and allowance of the claims remaining in this application.

Respectfully submitted,

DAVID B. MILLER

By: 

Michael L. Mau
Reg. No.: 30,087
IPLM Group, P.A.
Post Office Box 18455
Minneapolis, MN 55418
Telephone (612) 331-7415

MLM:db